TESTIMONY OF
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EXECUTIVE VICE PRESIDENT-BELLSOUTH CORPORATION
BEFORE THE
COMMUNICATIONS SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

March, 25 1998

Good afternoon. My name is Sid Boren. I am BellSouth's executive vice president for corporate planning, development, policy and other matters. In this capacity, I am responsible for overseeing BellSouth's efforts to gain regulatory approval to provide long distance services to its customers.

As you know, we recently passed the second anniversary of the Telecom Act. This anniversary provided all segments of the industry with an opportunity to offer their own assessments of the relative successes and failures of the Act. I think it is safe to say that most people would agree that there is widespread frustration with the speed at which competition has been developing in the market for residential local phone service and in the long distance market. We share this frustration, in large part because our efforts to provide a full complement of services to our customers are being held hostage to the slow pace of competition in the local residential phone market.

- **THE PUBLIC IS BEING DENIED THE BENEFITS OF COMPETITION PROMISED BY THE TELECOM ACT.**

Notwithstanding the fanfare that accompanied the passage of the Telecom Act over two years ago, most consumers in the BellSouth region have yet to see the benefits of competition in their everyday purchasing decisions for telecommunications services. BellSouth and the other BOCs are still barred by law from providing long distance service to their customers.

BellSouth is committed to meeting the telecommunications needs of its customers, and will continue to pursue vigorously the right to provide to its customers all telephone services without regard to distance. We are hopeful that we will succeed in gaining long distance authority sometime later this year.

In the meantime, consumers in our region are denied the substantial benefits of BellSouth entry that the Telecom Act promised. Among other benefits, BellSouth's entry into the long distance market would result in an immediate decrease in the rates paid for long distance service. In its South Carolina and Louisiana applications, BellSouth proposed to offer long distance rates that were at least 5% lower than the rates charged by AT&T. The competition that would ensue would likely lead to further price reductions. An analysis by the WEFA Group estimates that

Bell Company entry into the long distance market would result in a 25% drop in long distance rates. Another study, by Professor Jerry Hausman of MIT, estimates that long distance prices would drop by about 17-18 percent, and that residential customers alone stand to benefit by about $7 billion per year.

The experience from Connecticut only confirms the benefits that result from entry into the long distance market by the incumbent LEC. In Connecticut, the incumbent local exchange company is Southern New England Telephone Company ("SNET"), which is not restricted from offering long distance service. In April of 1994, SNET began offering a complete package of local and long distance services to Connecticut residential customers. SNET undercut AT&T's prices by an average of 18%. In response, AT&T and MCI sought permission from the FCC to lower long distance rates in Connecticut. When this request was denied, AT&T and MCI began offering extremely low in-state toll rates. As a result of the price-cutting initiatives by SNET and the major long distance carriers, the residents of Connecticut benefited from lower prices. Congress intended that these same benefits would be available to the residents of all states, not just Connecticut.

The benefits of BOC long distance entry go beyond the prospect of lower prices for long distance service, primarily because of the broad scope of Section 271. The barrier to entry embodied by Section 271 extends beyond ordinary voice traffic, and includes data transmission across LATA boundaries. With the explosion of the demand for data transmission services, including Internet backbone transmission, the burden imposed on telecommunications customers by Section 271 has become significantly greater.

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Section 271 also restricts the choices available to our customers in making international calls. For example, a BellSouth customer in Miami placing a call to Buenos Aires is not free to select BellSouth as its international carrier. The point is that the restrictions in Section 271 extend well beyond what most people consider to be traditional long distance service. As a result, the burden that Section 271 imposes on customers—by restricting their ability to make choices for a wide range telecommunications services—is substantial.

Long distance relief would also benefit the average consumer by stimulating additional competition in the residential local exchange market. It would do so by encouraging the major interexchange carriers to enter the local market as a defensive measure. It has become increasingly clear over the past year that the major long distance companies have no intention of entering the local residential market under the pricing policies provided by the Telecom Act. Their demands for discounts in the range of 50-60%, which are not supported by the law or sound policy, were rejected by Congress during the debate on the Telecom Act for good reason.

- The long distance companies apparently believe they can preserve the oligopolistic status of the long distance market by simply staying out of the market for local residential phone service. There can be little doubt that keeping the BOCs out of this market would be in their best financial interests. Bell Company entry into the long distance market would reduce the revenue of the major long distance companies by approximately $10 billion per year. Under these circumstances, it may well be a wise strategy for these firms to refrain from taking actions that would put this revenue at risk. However, if BellSouth is granted long distance relief, the long distance companies would either enter the local residential market or risk losing their residential customers to BellSouth. Such entry holds the promise for the kind of broad-based competition for residential customers that Congress sought to achieve through the passage of the Telecom Act.

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- We believe that the FCC and the Department of Justice should focus on the benefits of Section 271 relief to the customers, rather than seeking to protect incumbents in the long distance oligopoly, and should let the competitive battle contemplated by the Telecom Act begin.

THE TELECOM ACT PROVIDES THAT BELL COMPANIES THAT OPEN THEIR MARKETS TO COMPETITION WILL BE GRANTED LONG DISTANCE RELIEF.

It has often been said that the Act contains a “carrot and stick” approach to BOC entry into long distance. The “stick” is the threat of compliance proceedings and/or civil lawsuits for breaching the statutory obligations of Sections 251 and 252. The “carrot,” of course, is the freedom to provide in-region long distance services. The Telecom Act empowers the FCC, after consulting with the relevant state public service commission and the Department of Justice, to deliver this “carrot” to the BOCs.

In order to obtain this “carrot,” a BOC is required to open its local market to new entrants. The tool for objectively measuring whether the BOC has in fact opened its local market is the 14-point competitive checklist contained in Section 271(c)(2)(B). From the BOC’s perspective, the quid pro quo contained in the Telecom Act is unmistakable: open your local market to competition in a given state and the FCC will grant your application to provide in-region long distance services in that state.

In BellSouth’s view, a market is “open” if a state certifies that the BOC has complied with the 14-point competitive checklist. Understandably, our opponents would impose a much higher standard. They argue that a market is not “open” until the residents have a choice in selecting their local phone company. This test is simply another recitation of the “market share” test that was considered and expressly rejected by the Congress. Recent events bear out Congress’ wisdom of rejecting this test. AT&T and MCI, the largest long distance companies, have both publicly announced that they are terminating their marketing of local services to residential customers. If BOC entry were dependent on the marketing plans of BellSouth’s competitors, the very companies that stand to lose the most from BellSouth’s entry would hold the keys to our long distance relief. Congress did not intend such a backward and anticompetitive result.

BELLSOUTH HAS OPENED ITS LOCAL MARKETS TO COMPETITION.

BellSouth Has Opened Its Markets To Competition In Accordance With The Terms of the Telecom Act, the FCC's Regulations And Its Agreements With CLECs.

BellSouth has complied with the market-opening provisions of the Telecom Act, and has gone "the extra mile" in providing all necessary help to new entrants. BellSouth has entered into 340 interconnection agreements with carriers across its nine-state region, including AT&T, MCI, Sprint, Teleport, Intermedia and other major CLECs. Approximately 450 CLECs are certified to provide service in BellSouth's region, and approximately 170 CLECs are active today in our territory.

To date, BellSouth has committed over $500 million to assure that its systems and processes are designed to allow competitors access to its local phone markets. Approximately 700 employees are dedicated solely to CLEC customer service.

BellSouth has established a Local Carrier Service Center ("LCSC") and an Unbundled Network Element Center to support CLEC activities. The LCSC provides 24-hour, 7-day-a-week access and support for CLEC customers.

BellSouth has developed operational support systems ("OSS") to allow CLECs to have non-discriminatory access to BellSouth's databases, as required by the competitive checklist contained in the Telecom Act, and is continually improving these systems to meet CLEC needs. BellSouth provides non-discriminatory access to its operational support systems for pre-ordering, ordering, provisioning, maintenance and repair and billing. These are the same databases used by BellSouth's retail personnel to offer local telephone service. Electronic and manual interfaces for each function are fully operational, and are in actual use. These interfaces provide access to the required information and functions in substantially the same time and manner as BellSouth's access when serving its retail customers.

BellSouth has made significant improvements to its Operational Support Systems since filing its Louisiana application. For example, one of the criticisms of BellSouth's OSS system was that BellSouth did not have a "machine-to-machine" pre-ordering interface. In December of last year, BellSouth completed the development of a machine-to-machine interface designed to AT&T's specifications ("EC-LITE") at a cost of more than $ 9 million. The testing for this interface was completed on December 31, 1997, and the system was operational and available to AT&T at that time.

BellSouth's OSS systems have been evaluated by the Public Service Commissions in South Carolina and Louisiana. In both cases, the public service commission concluded, after lengthy hearings and/or live demonstrations, that these systems complied with the requirements of the Telecom Act.

BellSouth Has Realigned Its Telephone Operations To Enable It To Meet And

Exceed The Needs Of Its CLEC Customers.

In July of 1997, BellSouth announced that it was realigning its telephone operations in order to induce the long distance carriers and CLECs to utilize its network to carry the traffic of their retail customers. BellSouth acknowledges that CLECs have choices in how they design their networks. One choice is whether to construct their own facilities or to lease capacity from a facilities-based carrier, which is a "make or buy" decision. CLECs that elect to "buy" capacity face a second choice—which company should they select to carry their traffic. CLECs have these choices today and will have even more options available to them over time as more fiber is deployed in the BellSouth region.

As part of a concerted effort to retain the traffic of the CLECs' retail customers on its network, BellSouth created the Network and Carrier Services Group to provide the network and marketing services to wholesale customers, such as CLECs and long distance companies. A second group serves the needs of BellSouth's retail customers in the residential market, as well as the retail customers in the small and large business markets. One of the purposes of effecting the realignment was to provide a focus and structure to BellSouth's efforts to retain the carrier services business of CLECs. This purpose is reinforced by BellSouth's commitment to comply with the requirements of the Telecom Act.

Our business strategy with regard to CLECs is straightforward. We seek to be the premier provider—in terms of capability and quality—of network services in our region. BellSouth seeks to present a compelling value proposition to distributors so that they prefer to purchase network capability from BellSouth rather than from any other company and perhaps even instead of building their own networks. Finally, BellSouth seeks to provide a level of network and related functionality so that all of its customers can compete effectively in the retail market. BellSouth is committed to do what it takes to meet and exceed the needs of its CLEC customers.

BellSouth assigns account teams to every CLEC, as well as a Customer Support Manager. Technical experts from the Network and Carrier Services Group are available to support these account teams. BellSouth has sent implementation teams to meet with CLEC customers to assist them in learning to access BellSouth's databases, as required by the Act, and in establishing their business relationships with BellSouth.

BellSouth has conducted training sessions for approximately 110 of its CLEC customers, representing approximately 600 CLEC representatives. BellSouth has polled the attendees at the end of each training session whether or not they found the sessions to be useful. On a scale of 1 to 5, with 5 being the highest rating, the attendees have given the training sessions an overall rating of 4.5 in terms of the quality of the content and the way in which it was presented.

BellSouth's commitment to providing superior service to CLECs is confirmed by its compensation plans. The annual bonuses of the employees in the Interconnection Services Group are primarily based on the level of business and the level of CLEC satisfaction in the carrier services provided by BellSouth.

Market Evidence Demonstrates That BellSouth's Local Markets Are Open To Competitors That Seek To Enter Them.

Competition is unfolding in BellSouth's region, primarily for business customers. BellSouth's competitors have been constructing facilities in its region for some time, and the pace of such construction has accelerated in the past year. As January 1, 1998, there were more than 8000 miles of fiber optic facilities and more than 70 CLEC switches deployed in the BellSouth region. This fiber serves nearly 2300 buildings.

Although some of these networks have been constructed and are currently being utilized to offer access services to business customers, such networks can be, and are, utilized to provide local exchange service. As a general rule, a CLEC with a fiber ring and a switch can provide local exchange service to its access customers, provided that it has established interconnection trunks with BellSouth. Such trunks are readily available today. In fact, BellSouth had provisioned approximately 100,000 interconnection trunks as of the end of February, 1998.

BellSouth estimates that there are approximately 122 operational CLEC networks in operation in BellSouth's region. These facilities have been constructed by new entrants, such as MCI, MFS, Teleport, Intermedia and others, and are providing telecommunications service to thousands of customers in BellSouth's region today. More than 30 additional CLEC networks are being developed.

The extent of competition in the BellSouth region is further illustrated by the following facts:

- CLEC's are reselling approximately 288,000 of BellSouth's access lines, and this number is increasing at a rate of 12.2% per month. Our forecast is that 965,000 lines will be used by the end of the year.
CLECs have over 11,000 unbundled loops in service.
BellSouth has ported or transferred over 47,000 numbers to facilities-based CLECs.
BellSouth's competitors have been competing vigorously against BellSouth in the market for high capacity point-to-point traffic. BellSouth's market share for this service in its largest markets has been steadily eroding for the last several years.
Across its region, BellSouth has lost more than 3 million intra-state long distance retail customers. BellSouth is at a competitive disadvantage in competing for this business since it cannot satisfy all of the long distance needs of a customer, unlike the long distance companies.
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Wall Street Provides Additional Evidence That Local Markets Are Open.

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• The decisions that investors are making every day on Wall Street provide additional evidence that local markets are open to competition. Wall Street investors have embraced a whole new wave of telecom providers--CLECs--and are demonstrating by investing billions of dollars that they believe that the local markets are open to competition. These real-life actions by investors putting hard dollars at risk is readily distinguishable from hollow arguments made in various regulatory proceedings by companies whose business interests would be harmed by BOC entry into the long distance market. Consider the following evidence from Wall Street.

CLECs have been very successful in raising capital from the financial markets. Chairman Kennard recently stated that the CLEC industry had raised approximately $14 Billion in capital since the passage of the Telecom Act. At least ten CLECs have successfully tapped into the public capital markets through initial public offerings, including Brooks Fiber, Teleport, MCLeodUSA, Advanced Radio Telecom Corp., NextLink, ITC DeltaCom, Metromedia Teligent, RCN Corp. and Electric Lightwave.

The stock prices of publicly traded CLECs provide further evidence that Wall Street believes that the local markets are open. In 1997, the stocks of “pure-play” CLECs performed 50% better than the Dow Jones and 40% better than the Standard & Poor’s 500. And this occurred over a time frame when the Dow Jones and Standard and Poor’s indices experienced a tremendous runup.

Consider what the financial analysts that follow this segment of the telecom industry are telling their clients. Here are some excerpts from a recent report by Saloman Smith Barney:

• Now that fourth-quarter earnings are nearly over, we would like to discuss the strong results that the CLECs achieved. We would also like to reiterate our bullish, if not more bullish stance on this group. The CLECs have performed fantastically during 1997 and 1998 and we believe that there is even more to come. We’ve said many times in print that the CLECs are the best telecom investment opportunity in the past 15 years and we still believe that this is true…

Overall, the CLECs added 451,000 new business lines in 4Q97, more than a six-fold increase over lines added in 4Q96… Since the first quarter of 1997, the CLECs have managed to grow their share of total business net adds from 18% of the total business net adds to nearly 46% at the end of 4Q97 while the Bells' share has declined… In fact, we believe that by 4Q98, the CLECs as a group will add more new business lines than will the Bells as a group…

We believe that there is increasing evidence that the CLECs have and will continue to take share away from the Bells among business customers… _

<u>CLECs: Value of Business & Assets Increasing</u>, Salomon Smith Barney, March 5, 1998.

A recent report by Bear Stearns presents a bullish view toward CLECs. Here are some excerpts:

> The CLECs posted their strongest stock price gains of the year last week on the back of robust 4Q97 financial and operating results that were reported across the sector. The Bear Stearns CLEC Index rose 9.4% to 585.4.… We believe that this quarter's results from the CLECs are clear evidence we have entered a "sweet spot" in the cycle for these stocks. The quarter was characterized by four very positive trends which we expect to continue during the four quarters of 1998: (1) Strong sequential revenue growth in all lines of business, with particular strength in local dialtone, data, and Internet services. (2) An acceleration in the rate of access lines installed during the quarter versus last quarter. (3) An improvement in the quality of the access lines installed, as more lines were on-net and on-switch this quarter than in any previous quarter. (4) Dramatic gains toward profitability as the average CLEC posted a 500 to 1,000 basis-point expansion in its EBITDA margin during the quarter. Positive cash flow is clearly on the horizon. We believe that these positive trends should continue to create an attractive market for CLEC stocks well into the second half of 1998.

<u>CLECs Enter the Sweet Spot of the Cycle</u>, Bear Stearns, March 2, 1998.

It is also instructive to examine the statements that CLECs make to potential investors about their successes in competing in the local market. The press releases announcing annual earnings, which are typically released in February and March, provide some insight into the performance of the CLEC industry. Many CLECs have recently been reporting record growth in revenues and number of access lines served. <u>See</u>, <u>e.g</u>. Press Release dated March 2, 1998, “Intermedia Communications Reports Record Revenue Growth.”

Finally, I note that AT&T has entered into an agreement to acquire Teleport Communications Group, which describes itself as the is the nation's “premier competitive local telecommunications provider.” When the transaction was announced, it was valued at approximately $11 billion. If the management and board of directors of AT&T are willing to spend $11 billion to acquire a CLEC, it would appear that they have concluded that the local markets are open.

- The foregoing evidence shows that a predominance of investors believe that local markets are open to competition and that CLECs will succeed in implementing their business plans. The success of CLECs in raising capital and attracting investors compels this conclusion. Such evidence is based on real-life decisions by investors putting their money at risk in order to further their own private financial interests, and should therefor be accorded great weight.
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THE SECTION 271 PROCESS IS BADLY IN NEED OF REFORM.

BellSouth has submitted two of the four Section 271 applications that have been considered by the FCC to date. As such, BellSouth has first-hand experience with the Section 271 process. We have been extremely frustrated with the process that existed before the new FCC took office.

Before I mention some specific criticisms, let me hasten to add that the good news is that there appears to be a consensus that the process needs to be overhauled. The new FCC has been grappling with this challenge, and in January the FCC began a collaborative discussion with interested parties about the Section 271 process. We applaud the FCC's acknowledgment that it was not working and we look forward to a new approach to our next petition.

- **Fairness And Common Sense Dictate That The Standards For Approval Of Long Distance Applications Be Disclosed To The BOCs.**
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The processing Section 271 applications has suffered from a number of fundamental defects. The most fundamental defect is that the standards for Bell Company satisfaction of the checklist are not known. As incredible as it sounds, more than two years after the passage of the Telecom Act, there appears to be a consensus that no one knows precisely what a Bell Company must do in order to gain approval to provide long distance service to its customers. While we believe the standards are set out in the law, the FCC has continued to expand them.

This is obviously unfair to the Bell Companies, and does nothing to promote competition. If a Bell Company does not know what it must do in order to meet the FCC's competitive checklist, then it certainly cannot be expected to meet such a test. The obvious result is that our customers suffer by being denied the benefits of additional long distance competition, including the convenience of purchasing local and long distance service from a single provider.

- **The FCC Should Defer To The Findings Of The State Public Service Commissions.**
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This lack of guidance on the standards for entry is related to another issue—the role of the state public service commissions. The Telecom Act provides that the FCC shall consult with the applicable state public service commission in order to "verify" a Bell Company's compliance with the competitive checklist and the requirements of Track A/Track B. Congress intended that the state public service commissions would do the lion's share of the work in evaluating compliance with the checklist, and that the FCC would simply verify that the state PSC completed this task in the same manner that an appellate court reviews the factual determinations of a trial court.

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- Congressman Jack Fields, the former Chairman of the House Telecommunications Subcommittee and one of the principal authors of the Telecom Act, compared the Congress' view of the FCC's role in reviewing the competitive checklist to a pilot's pre-flight inspection of an airplane. The FCC was not expected to conduct a "full mechanical review." Rather, the FCC was merely supposed to verify or "check-off" that the state public service commission had completed the necessary work.

Congressman Field's understanding of the FCC's verification role is consistent with the relatively short time period that Congress allowed for FCC review of Section 271 applications. If Congress intended the FCC to conduct a "full mechanical review," it would have allowed more than 90 days for such a time-consuming and fact-intensive process.

This more limited role for the FCC in evaluating compliance with Section 271 (c) is also consistent with the role that state public service commissions have played for many decades. It is the state public service commissions, and not the FCC, that routinely conduct evidentiary hearings with live witnesses and cross-examination that renders them uniquely qualified to make findings of fact relating to checklist compliance. And it is the state public service commissions, and not the FCC, that have in-depth knowledge of the local market that would allow them to determine whether a "Track A" competitor exists in a given state. And it is the states, and not the FCC, that have extensive evidentiary proceedings relating to Bell Company compliance with Section 271, as well as arbitrations and cost proceedings.

Consider the extensive work done by the Louisiana Public Service Commission ("LPSC") on BellSouth's application to provide long distance service to its customers in Louisiana. The evidentiary hearing conducted by the LPSC on BellSouth's Statement of Generally Available Terms and Conditions included over 3800 pages of testimony and a record of nearly 6200 pages. The LPSC also conducted two additional cost proceedings to establish BellSouth's rates for interconnection, unbundled elements and resale. On the basis of these three proceedings, and informed by the results of other proceedings conducted by the LPSC relating to interconnection negotiations, the LPSC determined that BellSouth had demonstrated its compliance with the 14-point competitive checklist.

After performing its role under the Telecom Act in a thorough and professional manner, the LPSC was entitled to expect that the FCC would defer to its findings on matters within its special expertise. Yet that is not what happened. The FCC disagreed with the findings of the LPSC on two of the checklist items, and declined to address the other 12 items.

If the FCC were to defer to the findings of the state commissions, as the Congress intended it to do, it would accomplish two goals. It would put the decision-making authority in the hands of the officials that have the time and expertise to make these decisions. Second, it would lessen the FCC's workload so that it could focus its efforts on matters within its expertise. The FCC's role should be that of a pilot going through a "pre-flight inspection," and not a "full mechanical review."

- **Common Sense Dictates That The "Goal Posts" Stop Moving.**

The history of the Section 271 application process reveals a disturbing trend. Some have referred to it as the "moving goal post" syndrome. I am referring, of course, to the fact that the standards for complying with certain elements of Section 271 have become more difficult to satisfy over time. The best example of this phenomena is the FCC's treatment of Operational Support Systems, or OSS.

As you know, the issue of whether a BOC's Operational Support Systems comply with the requirements of the Telecom Act has become a principal focus, if not the principal focus, of the analysis Section 271 applications. Those opposing BOC entry generally assert that the systems are inadequate, while the BOCs defend their Operational Support Systems. This debate is based on complex engineering and operational parameters that are beyond the experience of all but a few experts.

- In light of the central role that Operational Support Systems are playing in the current debate, you might be surprised to learn that the term "operational support system" does not appear in the Telecom Act. Nor was it considered during the extensive hearings and lobbying battles that preceded the passage of the Telecom Act. In fact, the term "OSS" did not even become a term of art in the telecommunications industry until the well after the passage of the Telecom Act. The Telecom Act simply provides, as one of the checklist items, that BOCs must provide "nondiscriminatory access to databases."

In the FCC's Local Competition Order, issued in August of 1996, the FCC determined that for the first time that Operational Support Systems were to be treated as "network elements," and that incumbent local exchange companies were required to provide "electronic interfaces" to databases. With this decision, the goal posts moved away from the playing field.

Then in August of 1997, the FCC denied Ameritech's long distance application for Michigan. In that decision, the FCC substantially expanded the requirements for Operational Support Systems. For example, this decision held for the first time that BOCs are required to establish "machine-to-machine" interfaces. One measure of the scope of the expansion of the OSS requirements is the fact that the FCC's discussion of this subject takes up 49 pages of text. With this decision, the goal posts moved outside of the stadium.

A second example where the standards for complying with Section 271 have grown increasingly more difficult involves the treatment of Track A and Track B. As you know, one of the requirements of Section 271 is that the BOC show that a facilities-based competitor is serving business and residential customers in that state. This is referred to as "Track A." Alternatively, a BOC may show that that no facilities-based competitor had requested to interconnect with the BOC. This alternative requirement, which is referred to as "Track B," was intended to provide an avenue for BOC entry where competition is slow to materialize.

In the FCC's decision denying SBC's long distance application for Oklahoma, issued on June 25, 1997, the FCC rejected SBC's reliance on Track B on the grounds that SBC had received requests for interconnection from potential facilities-based competitors. In effect, the FCC added the word "potential" into the Act, which had the effect of substantially limiting the availability of Track B. The FCC held out the prospect for a BOC to rely on Track B if it could demonstrate that the potential facilities-based competitor was not taking "reasonable steps" toward entering the market and becoming an actual competitor that would meet the requirements of Track A.

On December 24, 1997, the FCC issued a decision rejecting BellSouth's South Carolina Track B application which was based on the FCC's "reasonable steps" holding discussed above. The South Carolina Public Service Commission had found that none of BellSouth's competitors were taking any reasonable steps toward providing facilities-based competition for business and residential customers. Based on this finding, and the FCC's holding in the Oklahoma decision, BellSouth had every reason to think that the FCC would conclude that it had met the requirements of Track B. But the FCC held otherwise, and further restricted the availability of Track B.

In the case of OSS and Track A/Track B, there has been a pattern of "raising the bar" over which the BOC must jump in order to gain long distance relief. This pattern is consistent with the premise underlying the recent decision by Judge Kendall in Wichita Falls-- that Section 271 is a form of punishment for the BOCs. Common sense, fairness and the Telecom Act dictate that this dangerous trend stop immediately, and that the requirements of the Act be applied in a fair and consistent fashion.

- **THE FCC'S COLLABORATIVE PROCESS IS A STEP IN THE RIGHT DIRECTION.**

As indicated above, the FCC has undertaken a new, collaborative approach to Section 271, and has been conducting meetings with Bell Companies, long distance companies, CLECs and other interested parties. This new process is intended to facilitate communication between all parties before the filing of an application. I believe that the new process has been undertaken in recognition of some of the problems that I identified above, and I commend the Commissioners and the staff for taking the initiative and attempting to improve the Section 271 process.

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While BellSouth has been discussing various aspects of the Act with the FCC since 1996, BellSouth began meeting with the FCC on a weekly basis in early January. I am uniquely qualified to talk about these meetings, because I have attended nearly all of them.

These meetings provide BellSouth and the FCC staff with an opportunity to exchange information and views on issues related to Section 271. These discussions have been constructive and have generated an enhanced level of mutual understanding. The meetings, particularly the more recent ones, have been particularly helpful to BellSouth as a result of the feedback we have received from the staff on certain issues. And they could be even more helpful if we were to receive input on a number of other key issues, which we hope will take place in the near future.

This process is not intended to take the place of the application process that is contemplated by Section 271, and it cannot. As we understand it, the process is intended to facilitate the exchange of information before an application is filed, so that the FCC can react more efficiently to a Section 271 application in the statutory 90-day period.

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After we have completed our discussions with the FCC staff, we will be filing additional long distance applications with the FCC. Our next applications will describe the improvements in BellSouth's Operational Support Systems that were implemented earlier this month. They will also set out an expanded list of performance measurements based on the FCC's and DOJ's prior decisions. With these improvements, BellSouth's OSS and performance measurements will comply with the exacting, and let me say we believe beyond the law, standards adopted by the FCC in the Michigan decision.

Based on the foregoing, we have every confidence that those applications will be approved and that the stalemate at the FCC will be broken. When this happens, some of the benefits of the Telecom Act will begin to flow to the residential and rural consumers of this country. We believe that the FCC's efforts to "get to yes" are laudable, and we applaud their enlightened and pro-competitive views.

We are also encouraged by Senator McCain's action in introducing S. 1766, which would replace the existing application process for long distance relief with a "date certain." If this legislation were enacted, it would provide needed certainty to all participants. Most importantly, it would allow the benefits of competition to flow to the consumers in all parts of the nation quickly. The long distance companies face a “date certain” when they can engage in the joint marketing of local and long distance service. BellSouth and the other BOCs deserve to have the same freedom. We support this legislation.

CONCLUSION

- BellSouth has opened its local markets to competition and should be granted long distance authority in any state that finds that we have met the checklist. The controversy created by BellSouth’s two long distance applications belies the fact that BellSouth is only seeking the authority to provide a telephone service to its customers, just as more than 1300 other local exchange companies are free to do today. It is not radical. It is just providing telephone service.

- The challenge to this Committee and other policy-makers involved in this debate is to break the stalemate that prevents BellSouth and the other Bell Companies from providing a full package of services to its customers. It is understandable, in light of the complex operational and engineering issues that are at the heart of the debate on OSS, for decision-makers to avoid “siding” with one side of the debate or the other. However, under the circumstances, it is simply not possible to avoid “picking sides” on this important issue. BellSouth and the other BOCs are seeking to enter the market; our opponents are seeking to maintain the status quo. A decision to remain above the fray is a vote for the status quo, which is the situation that prevailed before the passage of the Telecom Act.

Thank you very much.